

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21096

Application 30505 of **Anthony M. and Jo Ann M. Truchard**
 3234 Old Sonoma Road
 Napa, CA 94559

filed on January 19, 1996, has been approved by the State Water Resources Control Board (SWRCB) subject to prior rights and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source	Tributary to
Unnamed Stream	Unnamed Stream (aka Stanley Creek)
	thence Horseshoe Bend thence
	Napa River thence
	San Pablo Bay

within the County of Napa

2. Location of point of diversion

By California Coordinate System in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)	Township	Range	Base and Meridian
Point of Diversion by collection to Onstream Storage (Reservoir #1); North 223,100 feet and East 1,908,250 feet	NE¼ of SW¼	17	5N	4W	MD
Point of Rediversion (Reservoir #2); North 223,050 feet and East 1,908,450	NE¼ of SW¼	17	5N	4W	MD

3. Purpose of use	4. Place of use	Section (Projected)	Township	Range	Base and Meridian	Acres
Irrigation	SW¼ of NW¼	16	5N	4W	MD	14
	SE¼ of NW¼	16	5N	4W	MD	5
	NW¼ of SW¼	16	5N	4W	MD	20
	NE¼ of SW¼	16	5N	4W	MD	10
	SE¼ of SW¼	16	5N	4W	MD	5
	SW¼ of SW¼	16	5N	4W	MD	10
	SW¼ of NE¼	17	5N	4W	MD	1
	SE¼ of NE¼	17	5N	4W	MD	14
	NE¼ of SE¼	17	5N	4W	MD	25
	SE¼ of SE¼	17	5N	4W	MD	6
	SW¼ of NE¼	17	5N	4W	MD	1
	NW¼ of SE¼	17	5N	4W	MD	11.5
	SE¼ of NW¼	17	5N	4W	MD	4
	NE¼ of SW¼	17	5N	4W	MD	7
					TOTAL	134.5

The place of use is shown on map on file with the SWRCB.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 15 acre-feet per annum to be collected from November 1 of each year to May 15 of the succeeding year.

(0000005C)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

(0000005I)

The total quantity of water collected to storage under this permit, Permit 21094 (Application 30504) and Permit 21095 (Application 30561) shall not exceed 80 acre-feet per annum.

(0000005L)

In recognition of the water rights held under Applications 30504, 30505 and 30561, the capacity of Reservoir #1 shall not exceed 15 acre-feet, the capacity of Reservoir #2 shall not exceed 25 acre-feet, and the capacity of Reservoir #3 shall not exceed 40 acre-feet, which are the stated capacities in the application.

(0000005P)

6. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2011.

(0000009)

7. During the period between March 15 and May 15 water may be collected to storage under this permit only when there are no restrictions imposed by the watermaster on diversions from the Napa River.

(0000085b)

8. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; old trails; and structure and feature remains such as building foundations and dumps. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend appropriate mitigation. Project related activities in the area of the find shall resume only after the completion of the recommended mitigation, as approved by the Chief of the Division of Water Rights.

(0000215)

9. This permit is specifically subject to the prior rights of Joseph Ghisletta, Jr. et al under appropriation issued pursuant to Application 25580A-1; Richard E. Hyde et al under appropriation issued pursuant to Application 25580A-2; Edward and Camille Penhoet under appropriation issued pursuant to Applications 25580B, 25580C-2 and 29262; Beringer Wine Estate Company under appropriation issued pursuant to Application 30236; and Charles J. and Barbara R. Williams under appropriation issued pursuant to Application 23397; and all successors in interest.

(000000Tmod)

10. Permittee shall install and properly maintain in the reservoirs a staff gage, satisfactory to the State Water Resources Control Board, for the purpose of determining water levels in the reservoirs.

Permittee shall record the staff gage readings on or about November 1 of each year. Such readings shall be supplied to the State Water Resources Control Board with the next progress report submitted to the Board by permittee. The State Water Resources Control Board may require the release of water that can not be verified as having been collected to storage prior to November 1 of each year.

After prior notification from protestants, permittee shall allow Joseph Ghisletta, Jr. et al, Richard E. Hyde et al, Edward and Camille Penhoet, Beringer Wine Estates Company, and Charles J. and Barbara R. Williams, and all successors in interest, or a designated representative, reasonable access to the reservoirs for the purpose of verifying staff gage readings and determining water levels in the reservoirs.

(00100047mod)

11. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam for Reservoir No.1 as near as practicable to the bottom of the natural stream channel that water entering the reservoir that is not authorized for appropriation under this permit can be released. Before starting construction of Reservoir No.1, permittee shall submit plans and specifications of the outlet pipe to the Chief of the Division of Water Rights for approval. Permittee shall provide other means satisfactory to the State Water Resources Control Board at Reservoir Nos. 2 and 3, so that water entering the reservoirs can be released. Before storing water in the reservoirs, permittee shall furnish evidence showing that the outlet pipe has been installed in the dam for Reservoir No. 1, and other means have been provided for bypassing water at Reservoir Nos. 2 and 3. Evidence shall include photographs showing completed works and/or certification by a registered Civil or Agricultural Engineer.
(0050043bp-mod)
12. Permittee shall bypass all natural streamflow entering the reservoir until such time as the prior storage rights of Joseph Ghisletta, Jr. et al, Richard E. Hyde et al, Edward and Camille Penhoet, Beringer Wine Estate Company, and Charles J. and Barbara R. Williams, and all successors in interest, are satisfied during the current collection season.
(0160400)

**ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD
ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

- (A) Permittee shall maintain records of the amount of water diverted and used to enable SWRCB to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.
- (B) The amount authorized for appropriation may be reduced in the license if investigation warrants.
- (C) Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.
- (D) Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.
- (E) Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant

thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

- (F) The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.
- (G) This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

- (H). No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000063)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: APR 5 2001

STATE WATER RESOURCES CONTROL BOARD

David R. Beeinger
for Chief, Division of Water Rights